



January 30, 2004

HOUSE BILL No. 1150

DIGEST OF HB 1150 (Updated January 27, 2004 3:15 pm - DI 97)

Citations Affected: IC 27-1.

Synopsis: Insurance company investments. Allows a property and casualty insurance company to invest up to 10% of the company's admitted assets in certain securities in which a life insurance company may invest. Makes technical changes.

Effective: July 1, 2004.

Fry, Ripley, Crooks

January 13, 2004, read first time and referred to Committee on Insurance, Corporations and Small Business.
January 29, 2004, amended, reported — Do Pass.

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HB 1150—LS 7125/DI 97+



January 30, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1150

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 27-1-12-2, AS AMENDED BY P.L.126-2001,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 2. (a) The following definitions apply to this
4 section:

5 (1) "Acceptable collateral" means, as to securities lending
6 transactions:

7 (A) cash;

8 (B) cash equivalents;

9 (C) letters of credit; and

10 (D) direct obligations of, or securities that are fully guaranteed
11 as to principal and interest by, the government of the United
12 States or any agency of the United States, including the
13 Federal National Mortgage Association and the Federal Home
14 Loan Mortgage Corporation.

15 (2) "Acceptable collateral" means, as to lending foreign securities,
16 sovereign debt that is rated:

17 (A) A- or higher by Standard & Poor's Corporation;

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- 1 (B) A3 or higher by Moody's Investors Service, Inc.;
- 2 (C) A- or higher by Duff and Phelps, Inc.; or
- 3 (D) 1 by the Securities Valuation Office.
- 4 (3) "Acceptable collateral" means, as to repurchase transactions:
- 5 (A) cash;
- 6 (B) cash equivalents; and
- 7 (C) direct obligations of, or securities that are fully guaranteed
- 8 as to principal and interest by, the government of the United
- 9 States or any agency of the United States, including the
- 10 Federal National Mortgage Association and the Federal Home
- 11 Loan Mortgage Corporation.
- 12 (4) "Acceptable collateral" means, as to reverse repurchase
- 13 transactions:
- 14 (A) cash; and
- 15 (B) cash equivalents.
- 16 (5) "Admitted assets" means assets permitted to be reported as
- 17 admitted assets on the statutory financial statement of the life
- 18 insurance company most recently required to be filed with the
- 19 commissioner.
- 20 (6) "Business entity" means:
- 21 (A) a sole proprietorship;
- 22 (B) a corporation;
- 23 (C) a limited liability company;
- 24 (D) an association;
- 25 (E) a partnership;
- 26 (F) a joint stock company;
- 27 (G) a joint venture;
- 28 (H) a mutual fund;
- 29 (I) a trust;
- 30 (J) a joint tenancy; or
- 31 (K) other, similar form of business organization;
- 32 whether organized for-profit or not-for-profit.
- 33 (7) "Cash" means any of the following:
- 34 (A) United States denominated paper currency and coins.
- 35 (B) Negotiable money orders and checks.
- 36 (C) Funds held in any time or demand deposit in any
- 37 depository institution, the deposits of which are insured by the
- 38 Federal Deposit Insurance Corporation.
- 39 (8) "Cash equivalent" means any of the following:
- 40 (A) A certificate of deposit issued by a depository institution,
- 41 the deposits of which are insured by the Federal Deposit
- 42 Insurance Corporation.

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- 1 (B) A banker's acceptance issued by a depository institution,
 2 the deposits of which are insured by the Federal Deposit
 3 Insurance Corporation.
 4 (C) A government money market mutual fund.
 5 (D) A class one money market mutual fund.
 6 (9) "Class one money market mutual fund" means a money
 7 market mutual fund that at all times qualifies for investment
 8 pursuant to the "Purposes and Procedures of the Securities
 9 Valuation Office" or any successor publication either using the
 10 bond class one reserve factor or because it is exempt from asset
 11 valuation reserve requirements.
 12 (10) "Dollar roll transaction" means two (2) simultaneous
 13 transactions that have settlement dates not more than ninety-six
 14 (96) days apart and that meet the following description:
 15 (A) In one (1) transaction, a life insurance company sells to a
 16 business entity one (1) or both of the following:
 17 (i) Asset-backed securities that are issued, assumed, or
 18 guaranteed by the Government National Mortgage
 19 Association, the Federal National Mortgage Association, or
 20 the Federal Home Loan Mortgage Corporation or the
 21 successor of an entity referred to in this item.
 22 (ii) Other asset-backed securities referred to in Section 106
 23 of Title I of the Secondary Mortgage Market Enhancement
 24 Act of 1984 (15 U.S.C. 77r-1), as amended.
 25 (B) In the other transaction, the life insurance company is
 26 obligated to purchase from the same business entity securities
 27 that are substantially similar to the securities sold under clause
 28 (A).
 29 (11) "Domestic jurisdiction" means:
 30 (A) the United States;
 31 (B) any state, territory, or possession of the United States;
 32 (C) the District of Columbia;
 33 (D) Canada; or
 34 (E) any province of Canada.
 35 (12) "Earnings available for fixed charges" means income, after
 36 deducting:
 37 (A) operating and maintenance expenses other than expenses
 38 that are fixed charges;
 39 (B) taxes other than federal and state income taxes;
 40 (C) depreciation; and
 41 (D) depletion;
 42 but excluding extraordinary nonrecurring items of income or

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1 expense appearing in the regular financial statements of a
2 business entity.

3 (13) "Fixed charges" includes:

4 (A) interest on funded and unfunded debt;

5 (B) amortization of debt discount; and

6 (C) rentals for leased property.

7 (14) "Foreign currency" means a currency of a foreign
8 jurisdiction.

9 (15) "Foreign jurisdiction" means a jurisdiction other than a
10 domestic jurisdiction.

11 (16) "Government money market mutual fund" means a money
12 market mutual fund that at all times:

13 (A) invests only in:

14 (i) obligations that are issued, guaranteed, or insured by the
15 United States; or

16 (ii) collateralized repurchase agreements composed of
17 obligations that are issued, guaranteed, or insured by the
18 United States; and

19 (B) qualifies for investment without a reserve pursuant to the
20 "Purposes and Procedures of the Securities Valuation Office"
21 or any successor publication.

22 (17) "Guaranteed or insured," when used in reference to an
23 obligation acquired under this section, means that the guarantor
24 or insurer has agreed to:

25 (A) perform or insure the obligation of the obligor or purchase
26 the obligation; or

27 (B) be unconditionally obligated, until the obligation is repaid,
28 to maintain in the obligor a minimum net worth, fixed charge
29 coverage, stockholders' equity, or sufficient liquidity to enable
30 the obligor to pay the obligation in full.

31 (18) "Investment company" means:

32 (A) an investment company as defined in Section 3(a) of the
33 Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), as
34 amended; or

35 (B) a person described in Section 3(c) of the Investment
36 Company Act of 1940.

37 (19) "Investment company series" means an investment portfolio
38 of an investment company that is organized as a series company
39 to which assets of the investment company have been specifically
40 allocated.

41 (20) "Letter of credit" means a clean, irrevocable, and
42 unconditional letter of credit that is:

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- 1 (A) issued or confirmed by; and
 2 (B) payable and presentable at;
 3 a financial institution on the list of financial institutions meeting
 4 the standards for issuing letters of credit under the "Purposes and
 5 Procedures of the Securities Valuation Office" or any successor
 6 publication. To constitute acceptable collateral for the purposes
 7 of paragraph 29 of subsection (b), ~~of this section~~, a letter of credit
 8 must have an expiration date beyond the term of the subject
 9 transaction.
- 10 (21) "Market value" means the following:
 11 (A) As to cash, the amount of the cash.
 12 (B) As to cash equivalents, the amount of the cash equivalents.
 13 (C) As to letters of credit, the amount of the letters of credit.
 14 (D) As to a security as of any date:
 15 (i) the price for the security on that date obtained from a
 16 generally recognized source, or the most recent quotation
 17 from such a source; or
 18 (ii) if no generally recognized source exists, the price for the
 19 security as determined in good faith by the parties to a
 20 transaction;
 21 plus accrued but unpaid income on the security to the extent
 22 not included in the price as of that date.
- 23 (22) "Money market mutual fund" means a mutual fund that
 24 meets the conditions of 17 CFR 270.2a-7, under the Investment
 25 Company Act of 1940 (15 U.S.C. 80a-1 et seq.).
- 26 (23) "Multilateral development bank" means an international
 27 development organization of which the United States is a
 28 member.
- 29 (24) "Mutual fund" means:
 30 (A) an investment company; or
 31 (B) in the case of an investment company that is organized as
 32 a series company, an investment company series;
 33 that is registered with the United States Securities and Exchange
 34 Commission under the Investment Company Act of 1940 (15
 35 U.S.C. 80a-1 et seq.).
- 36 (25) "Obligation" means any of the following:
 37 (A) A bond.
 38 (B) A note.
 39 (C) A debenture.
 40 (D) Any other form of evidence of debt.
- 41 (26) "Person" means:
 42 (A) an individual;

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(B) a business entity;

(C) a multilateral development bank; or

(D) a government or quasi-governmental body, such as a political subdivision or a government sponsored enterprise.

(27) "Repurchase transaction" means a transaction in which a life insurance company purchases securities from a business entity that is obligated to repurchase the purchased securities or equivalent securities from the life insurance company at a specified price, either within a specified period of time or upon demand.

(28) "Reverse repurchase transaction" means a transaction in which a life insurance company sells securities to a business entity and is obligated to repurchase the sold securities or equivalent securities from the business entity at a specified price, either within a specified period of time or upon demand.

(29) "Securities lending transaction" means a transaction in which securities are loaned by a life insurance company to a business entity that is obligated to return the loaned securities or equivalent securities to the life insurance company, either within a specified period of time or upon demand.

(30) "Securities Valuation Office" refers to:

(A) the Securities Valuation Office of the National Association of Insurance Commissioners; or

(B) any successor of the office referred to in Clause (A) established by the National Association of Insurance Commissioners.

(31) "Series company" means an investment company that is organized as a series company (as defined in Rule 18f-2(a) adopted under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), as amended).

(32) "Supported", when used in reference to an obligation, by whomever issued or made, means that:

(a) repayment of the obligation by:

(i) a domestic jurisdiction or by an administration, agency, authority, or instrumentality of a domestic jurisdiction; or

(ii) a business entity;

as the case may be, is secured by real or personal property of value at least equal to the principal amount of the obligation by means of mortgage, assignment of vendor's interest in one (1) or more conditional sales contracts, other title retention device, or by means of other security interest in such property for the benefit of the holder of the obligation; and

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(b) the:

(i) domestic jurisdiction or administration, agency, authority, or instrumentality of the domestic jurisdiction; or

(ii) business entity;

as the case may be, has entered into a firm agreement to rent or use the property pursuant to which it is obligated to pay money as rental or for the use of such property in amounts and at times which shall be sufficient, after provision for taxes upon and other expenses of use of the property, to repay in full the obligation with interest and when such agreement and the money obligated to be paid thereunder are assigned, pledged, or secured for the benefit of the holder of the obligation. However, where the security for the repayment of the obligation consists of a first mortgage lien or deed of trust on a fee interest in real property, the obligation may provide for the amortization, during the initial, fixed period of the lease or contract, of less than one hundred percent (100%) of the obligation if there is pledged or assigned, as additional security for the obligation, sufficient rentals payable under the lease, or of contract payments, to secure the amortized obligation payments required during the initial, fixed period of the lease or contract, including but not limited to payments of principal, interest, and taxes other than the income taxes of the borrower, and if there is to be left unamortized at the end of such period an amount not greater than the original appraised value of the land only, exclusive of all improvements, as prescribed by law.

(b) Investments of domestic life insurance companies at the time they are made shall conform to the following categories, conditions, limitations, and standards:

1. Obligations of a domestic jurisdiction or of any administration, agency, authority, or instrumentality of a domestic jurisdiction.

2. Obligations guaranteed, supported, or insured as to principal and interest by a domestic jurisdiction or by an administration, agency, authority, or instrumentality of a domestic jurisdiction.

3. Obligations issued under or pursuant to the Farm Credit Act of 1971 (12 U.S.C. 2001 through 2279aa-14) as in effect on December 31, 1990, or the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1449) as in effect on December 31, 1990, interest bearing obligations of the FSLIC Resolution Fund or shares of any institution whose deposits are insured by the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation to the extent that such shares

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are insured, obligations issued or guaranteed by a multilateral development bank, and obligations issued or guaranteed by the African Development Bank.

4. Obligations issued, guaranteed, or insured as to principal and interest by a city, county, drainage district, road district, school district, tax district, town, township, village, or other civil administration, agency, authority, instrumentality, or subdivision of a domestic jurisdiction, providing such obligations are authorized by law and are:

(a) direct and general obligations of the issuing, guaranteeing or insuring governmental unit, administration, agency, authority, district, subdivision, or instrumentality;

(b) payable from designated revenues pledged to the payment of the principal and interest thereof; or

(c) improvement bonds or other obligations constituting a first lien, except for tax liens, against all of the real estate within the improvement district or on that part of such real estate not discharged from such lien through payment of the assessment. The area to which such improvement bonds or other obligations relate shall be situated within the limits of a town or city and at least fifty percent (50%) of the properties within such area shall be improved with business buildings or residences.

5. Loans evidenced by obligations secured by first mortgage liens on otherwise unencumbered real estate or otherwise unencumbered leaseholds having at least fifty (50) years of unexpired term, such real estate, or leaseholds to be located in a domestic jurisdiction. Such loans shall not exceed eighty percent (80%) of the fair value of the security determined in a manner satisfactory to the department, except that the percentage stated may be exceeded if and to the extent such excess is guaranteed or insured by:

(a) a domestic jurisdiction or by an administration, agency, authority, or instrumentality of any domestic jurisdiction; or

(b) a private mortgage insurance corporation approved by the department.

If improvements constitute a part of the value of the real estate or leaseholds, such improvements shall be insured against fire for the benefit of the mortgagee in an amount not less than the difference between the value of the land and the unpaid balance of the loan.

For the purpose of this section, real estate or a leasehold shall not be deemed to be encumbered by reason of the existence in relation thereto of:

(1) liens inferior to the lien securing the loan made by the life insurance company;

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- (2) taxes or assessment liens not delinquent;
- (3) instruments creating or reserving mineral, oil, water or timber rights, rights-of-way, common or joint driveways, sewers, walls, or utility connections;
- (4) building restrictions or other restrictive covenants; or
- (5) an unassigned lease reserving rents or profits to the owner.

A loan that is authorized by this paragraph remains qualified under this paragraph notwithstanding any refinancing, modification, or extension of the loan. Investments authorized by this paragraph shall not in the aggregate exceed forty-five percent (45%) of the life insurance company's admitted assets.

6. Loans evidenced by obligations guaranteed or insured, but only to the extent guaranteed or insured, by a domestic jurisdiction or by any agency, administration, authority, or instrumentality of any domestic jurisdiction, and secured by second or subsequent mortgages or deeds of trust on real estate or leaseholds, provided the terms of the leasehold mortgages or deeds of trust shall not exceed four-fifths (4/5) of the unexpired lease term, including enforceable renewable options remaining at the time of the loan.

7. Real estate contracts involving otherwise unencumbered real estate situated in a domestic jurisdiction, to be secured by the title to such real estate, which shall be transferred to the life insurance company or to a trustee or nominee of its choosing. For statement and deposit purposes, the value of a contract acquired pursuant to this paragraph shall be whichever of the following amounts is the least:

- (a) eighty percent (80%) of the contract price of the real estate;
- (b) eighty percent (80%) of the fair value of the real estate at the time the contract is purchased, such value to be determined in a manner satisfactory to the department; or
- (c) the amount due under the contract.

For the purpose of this paragraph, real estate shall not be deemed encumbered by reason of the existence in relation thereto of: (1) taxes or assessment liens not delinquent; (2) instruments creating or reserving mineral, oil, water or timber rights, rights-of-way, common or joint driveways, sewers, walls or utility connections; (3) building restrictions or other restrictive covenants; or (4) an unassigned lease reserving rents or profits to the owner. Fire insurance upon improvements constituting a part of the real estate described in the contract shall be maintained in an amount at least equal to the unpaid balance due under the contract or the fair value of improvements, whichever is the lesser.

8. Improved or unimproved real property, whether encumbered or

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1 unencumbered, or any interest therein, held directly or evidenced by
 2 joint venture interests, general or limited partnership interests, trust
 3 certificates, or any other instruments, and acquired by the life insurance
 4 company as an investment, which real property, if unimproved, is
 5 developed within five (5) years. Real property acquired for investment
 6 under this paragraph, whether leased or intended to be developed for
 7 commercial or residential purposes or otherwise lawfully held, is
 8 subject to the following conditions and limitations:

9 (a) The real estate shall be located in a domestic jurisdiction.

10 (b) The admitted assets of the life insurance company must
 11 exceed twenty-five million dollars (\$25,000,000).

12 (c) The life insurance company shall have the right to expend
 13 from time to time whatever amount or amounts may be necessary
 14 to conform the real estate to the needs and purposes of the lessee
 15 and the amount so expended shall be added to and become a part
 16 of the investment in such real estate.

17 (d) The value for statement and deposit purposes of an investment
 18 under this paragraph shall be reduced annually by amortization of
 19 the costs of improvement and development, less land costs, over
 20 the expected life of the property, which value and amortization
 21 shall for statement and deposit purposes be determined in a
 22 manner satisfactory to the commissioner. In determining such
 23 value with respect to the calendar years in which an investment
 24 begins or ends with respect to a point in time other than the
 25 beginning or end of a calendar year, the amortization provided
 26 above shall be made on a proportional basis.

27 (e) Fire insurance shall be maintained in an amount at least equal
 28 to the insurable value of the improvements or the difference
 29 between the value of the land and the value at which such real
 30 estate is carried for statement and deposit purposes, whichever
 31 amount is smaller.

32 (f) Real estate acquired in any of the manners described and
 33 sanctioned under section 3 of this chapter, or otherwise lawfully
 34 held, except paragraph 5 of that section which specifically relates
 35 to the acquisition of real estate under this paragraph, shall not be
 36 affected in any respect by this paragraph unless such real estate
 37 at or subsequent to its acquisition fulfills the conditions and
 38 limitations of this paragraph, and is declared by the life insurance
 39 company in a writing filed with the department to be an
 40 investment under this paragraph. The value of real estate acquired
 41 under section 3 of this chapter, or otherwise lawfully held, and
 42 invested under this paragraph shall be initially that at which it was

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carried for statement and deposit purposes under that section.

(g) Neither the cost of each parcel of improved real property nor the aggregate cost of all unimproved real property acquired under the authority of this paragraph may exceed two percent (2%) of the life insurance company's admitted assets. For purposes of this paragraph, "unimproved real property" means land containing no structures intended for commercial, industrial, or residential occupancy, and "improved real property" consists of all land containing any such structure. When applying the limitations of subparagraph (d) of this paragraph, unimproved real property becomes improved real property as soon as construction of any commercial, industrial, or residential structure is so completed as to be capable of producing income. In the event the real property is mortgaged with recourse to the life insurance company or the life insurance company commences a plan of construction upon real property at its own expense or guarantees payment of borrowed funds to be used for such construction, the total project cost of the real property will be used in applying the two percent (2%) test. Further, no more than ten percent (10%) of the life insurance company's admitted assets may be invested in all property, measured by the property value for statement and deposit purposes as defined in this paragraph, held under this paragraph at the same time.

9. Deposits of cash in a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation, or certificates of deposit issued by a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.

10. Bank and bankers' acceptances and other bills of exchange of kinds and maturities eligible for purchase or rediscount by federal reserve banks.

11. Obligations that are issued, guaranteed, assumed, or supported by a business entity organized under the laws of a domestic jurisdiction and that are rated:

- (a) BBB- or higher by Standard & Poor's Corporation (or A-2 or higher in the case of commercial paper);
- (b) Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or higher in the case of commercial paper);
- (c) BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in the case of commercial paper); or
- (d) 1 or 2 by the Securities Valuation Office.

Investments may also be made under this paragraph in obligations that have not received a rating if the earnings available for fixed

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charges of the business entity for the period of its five (5) fiscal years next preceding the date of purchase shall have averaged per year not less than one and one-half (1 1/2) times its average annual fixed charges applicable to such period and if during either of the last two (2) years of such period such earnings available for fixed charges shall have been not less than one and one-half (1 1/2) times its fixed charges for such year. However, if the business entity is a finance company or other lending institution at least eighty percent (80%) of the assets of which are cash and receivables representing loans or discounts made or purchased by it, the multiple shall be one and one-quarter (1 1/4) instead of one and one-half (1 1/2).

11.(A) Obligations issued, guaranteed, or assumed by a business entity organized under the laws of a domestic jurisdiction, which obligations have not received a rating or, if rated, have not received a rating that would qualify the obligations for investment under paragraph 11 of this section. Investments authorized by this paragraph may not exceed ten percent (10%) of the life insurance company's admitted assets.

12. Preferred stock of, or common or preferred stock guaranteed as to dividends by, any corporation organized under the laws of a domestic jurisdiction, which over the period of the seven (7) fiscal years immediately preceding the date of purchase earned an average amount per annum at least equal to five percent (5%) of the par value of its common and preferred stock (or, in the case of stocks having no par value, of its issued or stated value) outstanding at date of purchase, or which over such period earned an average amount per annum at least equal to two (2) times the total of its annual interest charges, preferred dividends and dividends guaranteed by it, determined with reference to the date of purchase. No investment shall be made under this paragraph in a stock upon which any dividend is in arrears or has been in arrears for ninety (90) days within the immediately preceding five (5) year period.

13. Common stock of any solvent corporation organized under the laws of a domestic jurisdiction which over the seven (7) fiscal years immediately preceding purchase earned an average amount per annum at least equal to six percent (6%) of the par value of its capital stock (or, in the case of stock having no par value, of the issued or stated value of such stock) outstanding at date of purchase, but the conditions and limitations of this paragraph shall not apply to the special area of investment to which paragraph 23 of this section pertains.

13.(A) Stock or shares of any mutual fund that:

(a) has been in existence for a period of at least five (5) years

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1 immediately preceding the date of purchase, has assets of not less
 2 than twenty-five million dollars (\$25,000,000) at the date of
 3 purchase, and invests substantially all of its assets in investments
 4 permitted under this section; or

5 (b) is a class one money market mutual fund or a class one bond
 6 mutual fund.

7 Investments authorized by this paragraph 13(A) in mutual funds having
 8 the same or affiliated investment advisers shall not at any one (1) time
 9 exceed in the aggregate ten percent (10%) of the life insurance
 10 company's admitted assets. The limitations contained in paragraph 22
 11 of this subsection apply to investments in the types of mutual funds
 12 described in subparagraph (a). For the purposes of this paragraph,
 13 "class one bond mutual fund" means a mutual fund that at all times
 14 qualifies for investment using the bond class one reserve factor under
 15 the "Purposes and Procedures of the Securities Valuation Office" or
 16 any successor publication.

17 The aggregate amount of investments under this paragraph may be
 18 limited by the commissioner if the commissioner finds that investments
 19 under this paragraph may render the operation of the life insurance
 20 company hazardous to the company's policyholders or creditors or to
 21 the general public.

22 14. Loans upon the pledge of any of the investments described in
 23 this section other than real estate and those qualifying solely under
 24 paragraph 20 of this subsection, but the amount of such a loan shall not
 25 exceed seventy-five percent (75%) of the value of the investment
 26 pledged.

27 15. Real estate acquired or otherwise lawfully held under the
 28 provisions of IC 27-1, except under paragraph 7 or 8 of this subsection,
 29 which real estate as an investment shall also include the value of
 30 improvements or betterments made thereon subsequent to its
 31 acquisition. The value of such real estate for deposit and statement
 32 purposes is to be determined in a manner satisfactory to the
 33 department.

34 15.(A) Tangible personal property, equipment trust obligations, or
 35 other instruments evidencing an ownership interest or other interest in
 36 tangible personal property when the life insurance company purchasing
 37 such property has admitted assets in excess of twenty-five million
 38 dollars (\$25,000,000), and where there is a right to receive determined
 39 portions of rental, purchase, or other fixed obligatory payments for the
 40 use of such personal property from a corporation whose obligations
 41 would be eligible for investment under the provisions of paragraph 11
 42 of this subsection, provided that the aggregate of such payments

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1 together with the estimated salvage value of such property at the end
 2 of its minimum useful life, to be determined in a manner acceptable to
 3 the insurance commissioner, and the estimated tax benefits to the
 4 insurer resulting from ownership of such property, is adequate to return
 5 the cost of the investment in such property, and provided further, that
 6 each net investment in tangible personal property for which any single
 7 private corporation is obligated to pay rental, purchase, or other
 8 obligatory payments thereon does not exceed one-half of one percent
 9 (1/2%) of the life insurance company's admitted assets, and the
 10 aggregate net investments made under the provisions of this paragraph
 11 do not exceed five percent (5%) of the life insurance company's
 12 admitted assets.

13 16. Loans to policyholders of the life insurance company in amounts
 14 not exceeding in any case the reserve value of the policy at the time the
 15 loan is made.

16 17. A life insurance company doing business in a foreign
 17 jurisdiction may, if permitted or required by the laws of such
 18 jurisdiction, invest funds equal to its obligations in such jurisdiction in
 19 investments legal for life insurance companies domiciled in such
 20 jurisdiction or doing business therein as alien companies.

21 17.(A) Investments in (i) obligations issued, guaranteed, assumed,
 22 or supported by a foreign jurisdiction or by a business entity organized
 23 under the laws of a foreign jurisdiction and (ii) preferred stock and
 24 common stock issued by any such business entity, if the obligations of
 25 such foreign jurisdiction or business entity, as appropriate, are rated:

26 (a) BBB- or higher by Standard & Poor's Corporation (or A-2 or
 27 higher in the case of commercial paper);

28 (b) Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or
 29 higher in the case of commercial paper);

30 (c) BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in
 31 the case of commercial paper); or

32 (d) 1 or 2 by the Securities Valuation Office.

33 If the obligations issued by a business entity organized under the laws
 34 of a foreign jurisdiction have not received a rating, investments may
 35 nevertheless be made under this paragraph in such obligations and in
 36 the preferred and common stock of the business entity if the earnings
 37 available for fixed charges of the business entity for a period of five (5)
 38 fiscal years preceding the date of purchase have averaged at least three
 39 (3) times its average fixed charges applicable to such period, and if
 40 during either of the last two (2) years of such period, the earnings
 41 available for fixed charges were at least three (3) times its fixed
 42 charges for such year. ~~in~~ Investments authorized by this paragraph in

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a single foreign jurisdiction shall not exceed ten percent (10%) of the life insurance company's admitted assets. Subject to section 2.2(g) of this chapter, investments authorized by this paragraph denominated in foreign currencies shall not in the aggregate exceed ten percent (10%) of a life insurance company's admitted assets, and investments in any one (1) foreign currency shall not exceed five percent (5%) of the life insurance company's admitted assets. Investments authorized by this paragraph and paragraph 17(B) shall not in the aggregate exceed twenty percent (20%) of the life insurance company's admitted assets. This paragraph in no way limits or restricts investments which are otherwise specifically eligible for deposit under this section.

17.(B) Investments in:

(a) obligations issued, guaranteed, or assumed by a foreign jurisdiction or by a business entity organized under the laws of a foreign jurisdiction; and

(b) preferred stock and common stock issued by a business entity organized under the laws of a foreign jurisdiction;

which investments are not eligible for investment under paragraph 17.(A).

Investments authorized by this paragraph 17(B) shall not in the aggregate exceed five percent (5%) of the life insurance company's admitted assets. Subject to section 2.2(g) of this chapter, if investments authorized by this paragraph 17(B) are denominated in a foreign currency, the investments shall not, as to such currency, exceed two percent (2%) of the life insurance company's admitted assets. Investments authorized by this paragraph 17(B) in any one (1) foreign jurisdiction shall not exceed two percent (2%) of the life insurance company's admitted assets.

Investments authorized by paragraph 17(A) of this subsection and this paragraph 17(B) shall not in the aggregate exceed twenty percent (20%) of the life insurance company's admitted assets.

18. To protect itself against loss, a company may in good faith receive in payment of or as security for debts due or to become due, investments or property which do not conform to the categories, conditions, limitations, and standards set out above.

19. A life insurance company may purchase for its own benefit any of its outstanding annuity or insurance contracts or other obligations and the claims of holders thereof.

20. A life insurance company may make investments although not conforming to the categories, conditions, limitations, and standards contained in paragraphs 1 through 11, 12 through 19, and 29 through ~~30.(A)~~ 31 of this subsection, but limited in aggregate amount to the

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1 lesser of:

- 2 (a) ten percent (10%) of the company's admitted assets; or
 3 (b) the aggregate of the company's capital, surplus, and
 4 contingency reserves reported on the statutory financial statement
 5 of the insurer most recently required to be filed with the
 6 commissioner.

7 This paragraph 20 does not apply to investments authorized by
 8 paragraph 11.(A) of this subsection.

9 20.(A) Investments under paragraphs 1 through 20 and paragraphs
 10 29 through ~~30.(A)~~ 31 of this subsection are subject to the general
 11 conditions, limitations, and standards contained in paragraphs 21
 12 through 28 of this subsection.

13 21. Investments in obligations (other than real estate mortgage
 14 indebtedness) and capital stock of, and in real estate and tangible
 15 personal property leased to, a single corporation, shall not exceed two
 16 percent (2%) of the life insurance company's admitted assets, taking
 17 into account the provisions of section 2.2(h) of this chapter. The
 18 conditions and limitations of this paragraph shall not apply to
 19 investments under paragraph 13(A) of this subsection or the special
 20 area of investment to which paragraph 23 of this subsection pertains.

21 22. Investments in:

- 22 (a) preferred stock; and
 23 (b) common stock;

24 shall not, in the aggregate, exceed twenty percent (20%) of the life
 25 insurance company's admitted assets, exclusive of assets held in
 26 segregated accounts of the nature defined in class 1(c) of IC 27-1-5-1.
 27 These limitations shall not apply to investments for the special
 28 purposes described in paragraph 23 of this subsection nor to
 29 investments in connection with segregated accounts provided for in
 30 class 1(c) of IC 27-1-5-1.

31 23. Investments in subsidiary companies must be made in
 32 accordance with IC 27-1-23-2.6.

33 24. No investment, other than commercial bank deposits and loans
 34 on life insurance policies, shall be made unless authorized by the life
 35 insurance company's board of directors or a committee designated by
 36 the board of directors and charged with the duty of supervising loans
 37 or investments.

38 25. No life insurance company shall subscribe to or participate in
 39 any syndicate or similar underwriting of the purchase or sale of
 40 securities or property or enter into any transaction for such purchase or
 41 sale on account of said company, jointly with any other corporation,
 42 firm, or person, or enter into any agreement to withhold from sale any

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of its securities or property, but the disposition of its assets shall at all times be within its control. Nothing contained in this paragraph shall be construed to invalidate or prohibit an agreement by two (2) or more companies to join and share in the purchase of investments for bona fide investment purposes.

26. No life insurance company may invest in the stocks or obligations, except investments under paragraphs 9 and 10 of this subsection, of any corporation in which an officer of such life insurance company is either an officer or director. However, this limitation shall not apply with respect to such investments in:

(a) a corporation which is a subsidiary or affiliate of such life insurance company; or

(b) a trade association, provided such investment meets the requirements of paragraph 5 of this subsection.

27. Except for the purpose of mutualization provided for in section 23 of this chapter, or for the purpose of retirement of outstanding shares of capital stock pursuant to amendment of its articles of incorporation, or in connection with a plan approved by the commissioner for purchase of such shares by the life insurance company's officers, employees, or agents, no life insurance company shall invest in its own stock.

28. In applying the conditions, limitations, and standards prescribed in paragraphs 11, 12, and 13 of this subsection to the stocks or obligations of a corporation which in the seven (7) year period preceding purchase of such stocks or obligations acquired its property or a substantial part thereof through consolidation, merger, or purchase, the earnings of the several predecessors or constituent corporations shall be consolidated.

29. A. Before a life insurance company may engage in securities lending transactions, repurchase transactions, reverse repurchase transactions, or dollar roll transactions, the life insurance company's board of directors must adopt a written plan that includes guidelines and objectives to be followed, including the following:

(1) A description of how cash received will be invested or used for general corporate purposes of the company.

(2) Operational procedures for managing interest rate risk, counterparty default risk, and the use of acceptable collateral in a manner that reflects the liquidity needs of the transaction.

(3) A statement of the extent to which the company may engage in securities lending transactions, repurchase transactions, reverse repurchase transactions, and dollar roll transactions.

B. A life insurance company must enter into a written agreement for

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all transactions authorized by this paragraph, other than dollar roll transactions. The written agreement:

(1) must require the termination of each transaction not more than one (1) year after its inception or upon the earlier demand of the company; and

(2) must be with the counterparty business entity, except that, for securities lending transactions, the agreement may be with an agent acting on behalf of the life insurance company if:

(A) the agent is:

(i) a business entity, the obligations of which are rated BBB- or higher by Standard & Poor's Corporation (or A-2 or higher in the case of commercial paper), Baa3 or higher by Moody's Investors Service, Inc. (or P-2 or higher in the case of commercial paper), BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in the case of commercial paper), or 1 or 2 by the Securities Valuation Office;

(ii) a business entity that is a primary dealer in United States government securities, recognized by the Federal Reserve Bank of New York; or

(iii) any other business entity approved by the commissioner; and

(B) the agreement requires the agent to enter into with each counterparty separate agreements that are consistent with the requirements of this paragraph.

C. Cash received in a transaction under this paragraph shall be:

(1) invested:

(A) in accordance with this section 2; and

(B) in a manner that recognizes the liquidity needs of the transaction; or

(2) used by the life insurance company for its general corporate purposes.

D. For as long as a transaction under this paragraph remains outstanding, the life insurance company or its agent or custodian shall maintain, as to acceptable collateral received in the transaction, either physically or through book entry systems of the Federal Reserve, the Depository Trust Company, the Participants Trust Company, or another securities depository approved by the commissioner:

(1) possession of the acceptable collateral;

(2) a perfected security interest in the acceptable collateral; or

(3) in the case of a jurisdiction outside the United States:

(A) title to; or

(B) rights of a secured creditor to;

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the acceptable collateral.

E. The limitations set forth in paragraphs 17 and 21 of this subsection do not apply to transactions under this paragraph 29. For purposes of calculations made to determine compliance with this paragraph, no effect may be given to the future obligation of the life insurance company to:

- (1) resell securities, in the case of a repurchase transaction; or
- (2) repurchase securities, in the case of a reverse repurchase transaction.

F. A life insurance company shall not enter into a transaction under this paragraph if, as a result of the transaction, and after giving effect to the transaction:

- (1) the aggregate amount of securities then loaned, sold to, or purchased from any one (1) business entity under this paragraph would exceed five percent (5%) of the company's admitted assets (but in calculating the amount sold to or purchased from a business entity under repurchase or reverse repurchase transactions, effect may be given to netting provisions under a master written agreement); or
- (2) the aggregate amount of all securities then loaned, sold to, or purchased from all business entities under this paragraph would exceed forty percent (40%) of the admitted assets of the company (provided, however, that this limitation does not apply to a reverse repurchase transaction if the borrowing is used to meet operational liquidity requirements resulting from an officially declared catastrophe and is subject to a plan approved by the commissioner).

G. The following collateral requirements apply to all transactions under this paragraph:

- (1) In a securities lending transaction, the life insurance company must receive acceptable collateral having a market value as of the transaction date at least equal to one hundred two percent (102%) of the market value of the securities loaned by the company in the transaction as of that date. If at any time the market value of the acceptable collateral received from a particular business entity is less than the market value of all securities loaned by the company to that business entity, the business entity shall be obligated to deliver additional acceptable collateral to the company, the market value of which, together with the market value of all acceptable collateral then held in connection with all securities lending transactions with that business entity, equals at least one hundred two percent (102%) of the market value of the loaned

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securities.

(2) In a reverse repurchase transaction, other than a dollar roll transaction, the life insurance company must receive acceptable collateral having a market value as of the transaction date equal to at least ninety-five percent (95%) of the market value of the securities transferred by the company in the transaction as of that date. If at any time the market value of the acceptable collateral received from a particular business entity is less than ninety-five percent (95%) of the market value of all securities transferred by the company to that business entity, the business entity shall be obligated to deliver additional acceptable collateral to the company, the market value of which, together with the market value of all acceptable collateral then held in connection with all reverse repurchase transactions with that business entity, equals at least ninety-five percent (95%) of the market value of the transferred securities.

(3) In a dollar roll transaction, the life insurance company must receive cash in an amount at least equal to the market value of the securities transferred by the company in the transaction as of the transaction date.

(4) In a repurchase transaction, the life insurance company must receive acceptable collateral having a market value equal to at least one hundred two percent (102%) of the purchase price paid by the company for the securities. If at any time the market value of the acceptable collateral received from a particular business entity is less than one hundred percent (100%) of the purchase price paid by the life insurance company in all repurchase transactions with that business entity, the business entity shall be obligated to provide additional acceptable collateral to the company, the market value of which, together with the market value of all acceptable collateral then held in connection with all repurchase transactions with that business entity, equals at least one hundred two percent (102%) of the purchase price. Securities acquired by a life insurance company in a repurchase transaction shall not be:

- (A) sold in a reverse repurchase transaction;
- (B) loaned in a securities lending transaction; or
- (C) otherwise pledged.

30. A life insurance company may invest in obligations or interests in trusts or partnerships regardless of the issuer, which are secured by:

- (a) investments authorized by paragraphs 1, 2, 3, 4, or 11 of this subsection; or

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(b) collateral with the characteristics and limitations prescribed for loans under paragraph 5 of this subsection.

For the purposes of this paragraph 30, collateral may be substituted for other collateral if it is in the same amount with the same or greater interest rate and qualifies as collateral under subparagraph (a) or (b) of this paragraph.

~~30.(A)~~ **31.** A life insurance company may invest in obligations or interests in trusts or partnerships, regardless of the issuer, secured by any form of collateral other than that described in subparagraphs (a) and (b) of paragraph 30 of this subsection, which obligations or interests in trusts or partnerships are rated:

(a) A- or higher by Standard & Poor's Corporation or Duff and Phelps, Inc.;

(b) A 3 or higher by Moody's Investor Service, Inc.; or

(c) 1 by the Securities Valuation Office.

Investments authorized by this paragraph may not exceed ten percent (10%) of the life insurance company's admitted assets.

~~31.A.~~ **32.** A life insurance company may invest in short-term pooling arrangements as provided in this paragraph.

B. The following definitions apply throughout this paragraph:

(1) "Affiliate" means, as to any person, another person that, directly or indirectly through one (1) or more intermediaries, controls, is controlled by, or is under common control with the person.

(2) "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract (other than a commercial contract for goods or non-management services), or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if a person, directly or indirectly, owns, controls, holds with the power to vote or holds proxies representing ten percent (10%) or more of the voting securities of another person. This presumption may be rebutted by a showing that control does not exist in fact. The commissioner may determine, after furnishing all interested persons notice and an opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(3) "Qualified bank" means a national bank, state bank, or trust company that at all times is not less than adequately capitalized as determined by standards adopted by United States banking

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regulators and that is either regulated by state banking laws or is a member of the Federal Reserve System.

C. A life insurer may participate in investment pools qualified under this paragraph that invest only in:

(1) obligations that are rated BBB- or higher by Standard & Poor's Corporation (or A-2 or higher in the case of commercial paper), Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or higher in the case of commercial paper), BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in the case of commercial paper), or 1 or 2 by the Securities Valuation Office, and have:

(A) a remaining maturity of three hundred ninety-seven (397) days or less or a put that entitles the holder to receive the principal amount of the obligation which put may be exercised through maturity at specified intervals not exceeding three hundred ninety-seven (397) days; or

(B) a remaining maturity of three (3) years or less and a floating interest rate that resets not less frequently than quarterly on the basis of a current short-term index (for example, federal funds, prime rate, treasury bills, London InterBank Offered Rate (LIBOR) or commercial paper) and is not subject to a maximum limit, if the obligations do not have an interest rate that varies inversely to market interest rate changes;

(2) government money market mutual funds or class one money market mutual funds; or

(3) securities lending, repurchase, and reverse repurchase and dollar roll transactions that meet the requirements of paragraph 29 of this subsection and any applicable regulations of the department;

provided that the investment pool shall not acquire investments in any one (1) business entity that exceed ten percent (10%) of the total assets of the investment pool.

D. For an investment pool to be qualified under this paragraph, the investment pool shall not:

(1) acquire securities issued, assumed, guaranteed, or insured by the life insurance company or an affiliate of the company; or

(2) borrow or incur any indebtedness for borrowed money, except for securities lending, reverse repurchase, and dollar roll transactions that meet the requirements of paragraph 29 of this subsection.

E. A life insurance company shall not participate in an investment pool qualified under this paragraph if, as a result of and after giving

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effect to the participation, the aggregate amount of participation then held by the company in all investment pools under this paragraph and section 2.4 of this chapter would exceed thirty-five percent (35%) of its admitted assets.

F. For an investment pool to be qualified under this paragraph:

(1) the manager of the investment pool must:

(A) be organized under the laws of the United States, a state or territory of the United States, or the District of Columbia, and designated as the pool manager in a pooling agreement; and

(B) be the life insurance company, an affiliated company, a business entity affiliated with the company, or a qualified bank or a business entity registered under the Investment Advisors Act of 1940 (15 U.S.C. ~~80a-1~~ **80a-1** et seq.);

(2) the pool manager or an entity designated by the pool manager of the type set forth in subdivision (1) of this subparagraph F shall compile and maintain detailed accounting records setting forth:

(A) the cash receipts and disbursements reflecting each participant's proportionate participation in the investment pool;

(B) a complete description of all underlying assets of the investment pool (including amount, interest rate, maturity date (if any) and other appropriate designations); and

(C) other records which, on a daily basis, allow third parties to verify each participant's interest in the investment pool; and

(3) the assets of the investment pool shall be held in one (1) or more accounts, in the name of or on behalf of the investment pool, under a custody agreement or trust agreement with a qualified bank, which must:

(A) state and recognize the claims and rights of each participant;

(B) acknowledge that the underlying assets of the investment pool are held solely for the benefit of each participant in proportion to the aggregate amount of its participation in the investment pool; and

(C) contain an agreement that the underlying assets of the investment pool shall not be commingled with the general assets of the qualified bank or any other person.

G. The pooling agreement for an investment pool qualified under this paragraph must be in writing and must include the following provisions:

(1) Insurers, subsidiaries, or affiliates of insurers holding interests in the pool, or any pension or profit sharing plan of such insurers or their subsidiaries or affiliates, shall, at all times, hold one

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1 hundred percent (100%) of the interests in the investment pool.

2 (2) The underlying assets of the investment pool shall not be
3 commingled with the general assets of the pool manager or any
4 other person.

5 (3) In proportion to the aggregate amount of each pool
6 participant's interest in the investment pool:

7 (A) each participant owns an undivided interest in the
8 underlying assets of the investment pool; and

9 (B) the underlying assets of the investment pool are held solely
10 for the benefit of each participant.

11 (4) A participant or (in the event of the participant's insolvency,
12 bankruptcy, or receivership) its trustee, receiver, or other
13 successor-in-interest may withdraw all or any portion of its
14 participation from the investment pool under the terms of the
15 pooling agreement.

16 (5) Withdrawals may be made on demand without penalty or
17 other assessment on any business day, but settlement of funds
18 shall occur within a reasonable and customary period thereafter.
19 Payments upon withdrawals under this paragraph shall be
20 calculated in each case net of all then applicable fees and
21 expenses of the investment pool. The pooling agreement shall
22 provide for such payments to be made to the participants in one

23 (1) of the following forms, at the discretion of the pool manager:

24 (A) in cash, the then fair market value of the participant's pro
25 rata share of each underlying asset of the investment pool;

26 (B) in kind, a pro rata share of each underlying asset; or

27 (C) in a combination of cash and in kind distributions, a pro
28 rata share in each underlying asset.

29 (6) The records of the investment pool shall be made available for
30 inspection by the commissioner.

31 SECTION 2. IC 27-1-13-3, AS AMENDED BY P.L.1-2002,
32 SECTION 104, IS AMENDED TO READ AS FOLLOWS
33 [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The following definitions
34 apply throughout this section:

35 (1) "Acceptable collateral" means the following:

36 (A) As to securities lending transactions and for the purpose
37 of calculating counterparty exposure:

38 (i) cash;

39 (ii) cash equivalents;

40 (iii) letters of credit; and

41 (iv) direct obligations of, or securities that are fully
42 guaranteed as to principal and interest by, the government of

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- 1 the United States or any agency of the United States,
 2 including the Federal National Mortgage Association and
 3 the Federal Home Loan Mortgage Corporation.
 4 (B) As to lending foreign securities, sovereign debt rated 1 by
 5 the Securities Valuation Office.
 6 (C) As to repurchase transactions:
 7 (i) cash;
 8 (ii) cash equivalents; and
 9 (iii) direct obligations of, or securities that are fully
 10 guaranteed as to principal and interest by, the government of
 11 the United States or any agency of the United States,
 12 including the Federal National Mortgage Association and
 13 the Federal Home Loan Mortgage Corporation.
 14 (D) As to reverse repurchase transactions:
 15 (i) cash; and
 16 (ii) cash equivalents.
 17 (2) "Admitted assets" means assets permitted to be reported as
 18 admitted assets on the statutory financial statement of the insurer
 19 most recently required to be filed with the commissioner.
 20 (3) "Business entity" means any of the following:
 21 (A) A sole proprietorship.
 22 (B) A corporation.
 23 (C) A limited liability company.
 24 (D) An association.
 25 (E) A general partnership.
 26 (F) A limited partnership.
 27 (G) A limited liability partnership.
 28 (H) A joint stock company.
 29 (I) A joint venture.
 30 (J) A trust.
 31 (K) A joint tenancy.
 32 (L) Any other similar form of business organization, whether
 33 for profit or nonprofit.
 34 (4) "Cash" means any of the following:
 35 (A) United States denominated paper currency and coins.
 36 (B) Negotiable money orders and checks.
 37 (C) Funds held in any time or demand deposit in any
 38 depository institution, the deposits of which are insured by the
 39 Federal Deposit Insurance Corporation.
 40 (5) "Cash equivalent" means any of the following:
 41 (A) A certificate of deposit issued by a depository institution,
 42 the deposits of which are insured by the Federal Deposit

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- 1 Insurance Corporation.
- 2 (B) A banker's acceptance issued by a depository institution,
- 3 the deposits of which are insured by the Federal Deposit
- 4 Insurance Corporation.
- 5 (C) A government money market mutual fund.
- 6 (D) A class one (1) money market mutual fund.
- 7 (6) "Class one (1) money market mutual fund" means a money
- 8 market mutual fund that at all times qualifies for investment using
- 9 the bond class one (1) reserve factor pursuant to the Purposes and
- 10 Procedures of the Securities Valuation Office of the National
- 11 Association of Insurance Commissioners or any successor
- 12 publication.
- 13 (7) "Government money market mutual fund" means a money
- 14 market mutual fund that at all times:
- 15 (A) invests only in obligations issued, guaranteed, or insured
- 16 by the United States or collateralized repurchase agreements
- 17 composed of these obligations; and
- 18 (B) qualifies for investment without a reserve pursuant to the
- 19 Purposes and Procedures of the Securities Valuation Office of
- 20 the National Association of Insurance Commissioners or any
- 21 successor publication.
- 22 (8) "Money market mutual fund" means a mutual fund that meets
- 23 the conditions of 17 CFR 270.2a-7, under the Investment
- 24 Company Act of 1940 (15 U.S.C. 80a-1 et seq.).
- 25 (9) "Mutual fund" means:
- 26 (A) an investment company; or
- 27 (B) in the case of an investment company that is organized as
- 28 a series company, an investment company series;
- 29 that is registered with the United States Securities and Exchange
- 30 Commission under the Investment Company Act of 1940 (15
- 31 U.S.C. 80a-1 et seq.).
- 32 (10) "Obligation" means any of the following:
- 33 (A) A bond.
- 34 (B) A note.
- 35 (C) A debenture.
- 36 (D) Any other form of evidence of debt.
- 37 (11) "Qualified business entity" means a business entity that is:
- 38 (A) an issuer of obligations or preferred stock that is rated one
- 39 (1) or two (2) or is rated the equivalent of one (1) or two (2) by
- 40 the Securities Valuation Office or by a nationally recognized
- 41 statistical rating organization recognized by the Securities
- 42 Valuation Office; or

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1 (B) a primary dealer in United States government securities,
 2 recognized by the Federal Reserve Bank of New York.
 3 (12) "Securities Valuation Office" refers to the Securities
 4 Valuation Office of the National Association of Insurance
 5 Commissioners or any successor of the Office established by the
 6 National Association of Insurance Commissioners.
 7 (b) Any company, other than one organized as a life insurance
 8 company, organized under the provisions of IC 27-1 or any other law
 9 of this state and authorized to make any or all kinds of insurance
 10 described in class 2 or class 3 of IC 27-1-5-1 shall invest its capital or
 11 guaranty fund as follows and not otherwise:
 12 (1) In cash.
 13 (2) In:
 14 (A) direct obligations of the United States; or
 15 (B) obligations secured or guaranteed as to principal and
 16 interest by the United States.
 17 (3) In:
 18 (A) direct obligations; or
 19 (B) obligations secured by the full faith and credit;
 20 of any state of the United States or the District of Columbia.
 21 (4) In obligations of any county, township, city, town, village,
 22 school district, or other municipal district within the United States
 23 which are a direct obligation of the county, township, city, town,
 24 village, or district issuing the same.
 25 (5) In obligations secured by mortgages or deeds of trust or
 26 unencumbered real estate or perpetual leases thereon in the
 27 United States not exceeding eighty percent (80%) of the fair value
 28 of the security determined in a manner satisfactory to the
 29 department, except that the percentage stated may be exceeded if
 30 and to the extent such excess is guaranteed or insured by the
 31 United States, any state, territory, or possession of the United
 32 States, the District of Columbia, Canada, any province of Canada,
 33 or by an administration, agency, authority, or instrumentality of
 34 any such governmental units. Where improvements on the land
 35 constitute a part of the value on which the loan is made, the
 36 improvements shall be insured against fire and tornado for the
 37 benefit of the mortgagee. For the purposes of this section, real
 38 estate may not be deemed to be encumbered by reason of the
 39 existence of taxes or assessments that are not delinquent,
 40 instruments creating or reserving mineral, oil, or timber rights,
 41 rights-of-way, joint driveways, sewer rights, rights-in-walls, nor
 42 by reason of building restrictions, or other restrictive covenants,

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nor when such real estate is subject to lease in whole or in part whereby rents or profits are reserved to the owner. The restrictions contained in this subdivision do not apply to loans or investments made under section 5 of this chapter.

(c) Any company organized under the provisions of this article or any other law of this state and authorized to make any or all of the kinds of insurance described in class 2 or class 3 of IC 27-1-5-1 shall invest its funds over and above its required capital stock or required guaranty fund as follows, and not otherwise:

(1) In cash or cash equivalents. However, not more than ten percent (10%) of admitted assets may be invested in any single government money market mutual fund or class one (1) money market mutual fund.

(2) In direct obligations of the United States or obligations secured or guaranteed as to principal and interest by the United States.

(3) In obligations issued, guaranteed, or insured as to principal and interest by a city, county, drainage district, road district, school district, tax district, town, township, village or other civil administration, agency, authority, instrumentality or subdivision of a state, territory, or possession of the United States, the District of Columbia, Canada, or any province of Canada, providing such obligations are authorized by law and are either:

(A) direct and general obligations of the issuing, guaranteeing, or insuring governmental unit, administration, agency, authority, district, subdivision, or instrumentality;

(B) payable from designated revenues pledged to the payment of the principal and interest of the obligations; or

(C) improvement bonds or other obligations constituting a first lien, except for tax liens, against all of the real estate within the improvement district or on that part of such real estate not discharged from such lien through payment of the assessment.

The area to which the improvement bonds or other obligations under clause (C) relate must be situated within the limits of a town or city and at least fifty percent (50%) of the properties within that area must be improved with business buildings or residences.

(4) In:

(A) direct obligations; or

(B) obligations secured by the full faith and credit;

of any state of the United States, the District of Columbia, or Canada or any province thereof.

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(5) In obligations guaranteed, supported, or insured as to principal and interest by the United States, any state, territory, or possession of the United States, the District of Columbia, Canada, any province of Canada, or by an administration, agency, authority, or instrumentality of any of the political units listed in this subdivision. An obligation is "supported" for the purposes of this subdivision when repayment of the obligation is secured by real or personal property of value at least equal to the principal amount of the indebtedness by means of mortgage, assignment of vendor's interest in one (1) or more conditional sales contracts, other title retention device, or by means of other security interest in the property for the benefit of the holder of the obligation, and one (1) of the political units listed in this subdivision, or an administration, agency, authority, or instrumentality listed in this subdivision, has entered into a firm agreement to rent or use the property pursuant to which entity is obligated to pay money as rental or for the use of the property in amounts and at times that are sufficient, after provision for taxes upon and for other expenses of the use of the property, to repay in full the indebtedness, both principal and interest, and when the firm agreement and the money obligated to be paid under the agreement are assigned, pledged, or secured for the benefit of the holder of the obligation. However, where the security consists of a first mortgage lien or deed of trust on a fee interest in real property, the obligation may provide for the amortization, during the initial fixed period of the lease or contract of less than one hundred percent (100%) of the indebtedness if there is pledged or assigned, as additional security for the obligation, sufficient rentals payable under the lease, or of contract payments, to secure the amortized obligation payments required during the initial, fixed period of the lease or contract, including but not limited to payments of principal, interest, and taxes other than the income taxes of the borrower, and if there is to be left unamortized at the end of the period an amount not greater than the original appraised value of the land only, exclusive of all improvements, as prescribed by law.

(6) In obligations secured by mortgages or deeds of trust or unencumbered real estate or perpetual leases thereon, in any state in the United States, the District of Columbia, Canada, or any province of Canada, not exceeding eighty percent (80%) of the fair value of the security determined in a manner satisfactory to the department, except that the percentage stated may be

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1 exceeded if and to the extent that the excess is guaranteed or
 2 insured by the United States, any state, territory, or possession of
 3 the United States, the District of Columbia, Canada, any province
 4 of Canada, or by an administration, agency, authority, or
 5 instrumentality of any of such governmental units. The value of
 6 the real estate must be determined by a method and in a manner
 7 satisfactory to the department. The restrictions contained in this
 8 subdivision do not apply to loans or investments made under
 9 section 5 of this chapter.

10 (7) In obligations issued under or pursuant to the Farm Credit Act
 11 of 1971 (12 U.S.C. 2001 through 2279aa-14) as in effect on
 12 December 31, 1990, or the Federal Home Loan Bank Act (12
 13 U.S.C. 1421 through 1449) as in effect on December 31, 1990,
 14 interest bearing obligations of the FSLIC Resolution Fund and
 15 shares of any institution that is insured by the Savings Association
 16 Insurance Fund of the Federal Deposit Insurance Corporation to
 17 the extent that the shares are insured, obligations issued or
 18 guaranteed by the International Bank for Reconstruction and
 19 Development, obligations issued or guaranteed by the
 20 Inter-American Development Bank, and obligations issued or
 21 guaranteed by the African Development Bank.

22 (8) In any mutual fund that:

23 (A) has been registered with the Securities and Exchange
 24 Commission for a period of at least five (5) years immediately
 25 preceding the date of purchase;

26 (B) has net assets of at least twenty-five million dollars
 27 (\$25,000,000) on the date of purchase; and

28 (C) invests substantially all of its assets in investments
 29 permitted under this subsection.

30 The amount invested in any single mutual fund shall not exceed
 31 ten percent (10%) of admitted assets. The aggregate amount of
 32 investments under this subdivision may be limited by the
 33 commissioner if the commissioner finds that investments under
 34 this subdivision may render the operation of the company
 35 hazardous to the company's policyholders, to the company's
 36 creditors, or to the general public. This subdivision in no way
 37 limits or restricts investments that are otherwise specifically
 38 permitted under this section.

39 (9) In obligations payable in United States dollars and issued,
 40 guaranteed, assumed, insured, or accepted by a foreign
 41 government or by a solvent business entity existing under the laws
 42 of a foreign government, if the obligations of the foreign

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government or business entity meet at least one (1) of the following criteria:

(A) The obligations carry a rating of at least A3 conferred by Moody's Investor Services, Inc.

(B) The obligations carry a rating of at least A- conferred by Standard & Poor's Corporation.

(C) The earnings available for fixed charges of the business entity for a period of five (5) fiscal years preceding the date of purchase have averaged at least three (3) times the average fixed charges of the business entity applicable to the period, and if during either of the last two (2) years of the period, the earnings available for fixed charges were at least three (3) times the fixed charges of the business entity for the year. As used in this subdivision, the terms "earnings available for fixed charges" and "fixed charges" have the meanings set forth in IC 27-1-12-2(a).

Foreign investments authorized by this subdivision shall not exceed twenty percent (20%) of the company's admitted assets. This subdivision in no way limits or restricts investments that are otherwise specifically permitted under this section. Canada is not a foreign government for purposes of this subdivision.

(10) In the obligations of any solvent business entity existing under the laws of the United States, any state of the United States, the District of Columbia, Canada, or any province of Canada, provided that interest on the obligations is not in default.

(11) In the preferred or guaranteed shares of any solvent business entity, so long as the business entity is not and has not been for the preceding five (5) years in default in the payment of interest due and payable on its outstanding debt or in arrears in the payment of dividends on any issue of its outstanding preferred or guaranteed stock.

(12) In the shares, other than those specified in subdivision (7), of any solvent business entity existing under the laws of any state of the United States, the District of Columbia, Canada, or any province of Canada, and in the shares of any institution wherever located which has the insurance protection provided by the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation. Except for the purpose of mutualization or for the purpose of retirement of outstanding shares of capital stock pursuant to amendment of its articles of incorporation, or in connection with a plan approved by the commissioner for purchase of such shares by the insurance company's officers,

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employees, or agents, or for the elimination of fractional shares, no company subject to the provisions of this section may invest in its own stock.

(13) In loans upon the pledge of any mortgage, stocks, bonds, or other evidences of indebtedness, acceptable as investments under the terms of this chapter, if the current value of the mortgage, stock, bond, or other evidences of indebtedness is at least twenty-five percent (25%) more than the amount loaned on it.

(14) In real estate, subject to subsections (d) and (e).

(15) In securities lending, repurchase, and reverse repurchase transactions with business entities, subject to the following requirements:

(A) The company's board of directors shall adopt a written plan that specifies guidelines and objectives to be followed, such as:

(i) a description of how cash received will be invested or used for general corporate purposes of the company;

(ii) operational procedures to manage interest rate risk, counterparty default risk, and the use of acceptable collateral in a manner that reflects the liquidity needs of the transaction; and

(iii) the extent to which the company may engage in these transactions.

(B) The company shall enter into a written agreement for all transactions authorized in this subdivision. The written agreement shall require the termination of each transaction not more than one (1) year from its inception or upon the earlier demand of the company. The agreement shall be with the counterparty business entity but, for securities lending transactions, the agreement may be with an agent acting on behalf of the company if the agent is a qualified business entity and if the agreement:

(i) requires the agent to enter into separate agreements with each counterparty that are consistent with the requirements of this section; and

(ii) prohibits securities lending transactions under the agreement with the agent or its affiliates.

(C) Cash received in a transaction under this section shall be invested in accordance with this section and in a manner that recognizes the liquidity needs of the transaction or used by the company for its general corporate purposes. For as long as the transaction remains outstanding, the company or its agent or

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1 custodian shall maintain, as to acceptable collateral received
 2 in a transaction under this section, either physically or through
 3 book entry systems of the Federal Reserve, Depository Trust
 4 Company, Participants Trust Company, or other securities
 5 depositories approved by the commissioner:

6 (i) possession of the acceptable collateral;

7 (ii) a perfected security interest in the acceptable collateral;
 8 or

9 (iii) in the case of a jurisdiction outside the United States,
 10 title to, or rights of a secured creditor to, the acceptable
 11 collateral.

12 (D) For purposes of calculations made to determine
 13 compliance with this subdivision, no effect may be given to
 14 the company's future obligation to resell securities in the case
 15 of a repurchase transaction, or to repurchase securities in the
 16 case of a reverse repurchase transaction. A company shall not
 17 enter into a transaction under this subdivision if, as a result of
 18 and after giving effect to the transaction:

19 (i) the aggregate amount of securities then loaned, sold to,
 20 or purchased from any one (1) business entity pursuant to
 21 this subdivision would exceed five percent (5%) of its
 22 admitted assets (but, in calculating the amount sold to or
 23 purchased from a business entity pursuant to repurchase or
 24 reverse repurchase transactions, effect may be given to
 25 netting provisions under a master written agreement); or

26 (ii) the aggregate amount of all securities then loaned, sold
 27 to, or purchased from all business entities under this
 28 subdivision would exceed forty percent (40%) of its
 29 admitted assets.

30 (E) In a securities lending transaction, the company shall
 31 receive acceptable collateral having a market value as of the
 32 transaction date at least equal to one hundred two percent
 33 (102%) of the market value of the securities loaned by the
 34 company in the transaction as of that date. If at any time the
 35 market value of the acceptable collateral is less than the
 36 market value of the loaned securities, the business entity shall
 37 be obligated to deliver additional acceptable collateral, the
 38 market value of which, together with the market value of all
 39 acceptable collateral then held in connection with the
 40 transaction, at least equals one hundred two percent (102%) of
 41 the market value of the loaned securities.

42 (F) In a reverse repurchase transaction, the company shall

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1 receive acceptable collateral having a market value as of the
 2 transaction date at least equal to ninety-five percent (95%) of
 3 the market value of the securities transferred by the company
 4 in the transaction as of that date. If at any time the market
 5 value of the acceptable collateral is less than ninety-five
 6 percent (95%) of the market value of the securities so
 7 transferred, the business entity shall be obligated to deliver
 8 additional acceptable collateral, the market value of which,
 9 together with the market value of all acceptable collateral then
 10 held in connection with the transaction, equals at least
 11 ninety-five percent (95%) of the market value of the
 12 transferred securities.

13 (G) In a repurchase transaction, the company shall receive as
 14 acceptable collateral transferred securities having a market
 15 value equal to at least one hundred two percent (102%) of the
 16 purchase price paid by the company for the securities. If at any
 17 time the market value of the acceptable collateral is less than
 18 one hundred percent (100%) of the purchase price paid by the
 19 company, the business entity shall be obligated to provide
 20 additional acceptable collateral, the market value of which,
 21 together with the market value of all acceptable collateral then
 22 held in connection with the transaction, equals at least one
 23 hundred two percent (102%) of the purchase price. Securities
 24 acquired by a company in a repurchase transaction shall not be
 25 sold in a reverse repurchase transaction, loaned in a securities
 26 lending transaction, or otherwise pledged.

27 (16) In mortgage backed securities, including collateralized
 28 mortgage obligations, mortgage pass through securities, mortgage
 29 backed bonds, and real estate mortgage investment conduits,
 30 adequately secured by a pool of mortgages, which mortgages are
 31 fully guaranteed or insured by the government of the United
 32 States or any agency of the United States, including the Federal
 33 National Mortgage Association or the Federal Home Loan
 34 Mortgage Corporation.

35 (17) In mortgage backed securities, including collateralized
 36 mortgage obligations, mortgage pass through securities, mortgage
 37 backed bonds, and real estate mortgage investment conduits,
 38 adequately secured by a pool of mortgages, if the securities carry
 39 a rating of at least:

40 (A) A3 conferred by Moody's Investor Services, Inc.; or

41 (B) A- conferred by Standard & Poor's Corporation.

42 The amount invested in any one (1) obligation or pool of

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obligations described in this subdivision shall not exceed five percent (5%) of admitted assets. The aggregate amount of all investments under this subdivision shall not exceed ten percent (10%) of admitted assets.

(18) Any other investment acquired in good faith as payment on account of existing indebtedness or in connection with the refinancing, restructuring, or workout of existing indebtedness, if taken to protect the interests of the company in that investment.

(19) In obligations or interests in trusts or partnerships in which a life insurance company may invest as described in paragraph 31 of IC 27-1-12-2(b). Investments authorized by this paragraph may not exceed ten percent (10%) of the company's admitted assets.

(20) In any other investment. The total of all investments under this subdivision, except for investments in subsidiary companies under IC 27-1-23-2.6, may not exceed an aggregate amount of ten percent (10%) of the insurer's admitted assets. Investments are not permitted under this subdivision:

- (A) if expressly prohibited by statute; or
- (B) in an insolvent organization or an organization in default with respect to the payment of principal or interest on its obligations.

(d) Any company subject to the provisions of this section shall have power to acquire, hold, or convey real estate, or an interest therein, as described below, and no other:

(1) Leaseholds, provided the mortgage term shall not exceed four-fifths (4/5) of the unexpired lease term, including enforceable renewable options, remaining at the time of the loan, such real estate or leaseholds to be located in the United States, any territory or possession of the United States, or Canada, the value of such leasehold for statement purposes shall be determined in a manner and form satisfactory to the department. At the time the leasehold is acquired and approved by the department, a schedule of annual depreciation shall be set up by the department in which the value of said leasehold is to be depreciated, and said depreciation is to be averaged out over not exceeding a period of fifty (50) years.

(2) The building in which it has its principal office and the land on which it stands.

(3) Such as shall be necessary for the convenient transaction of its business.

(4) Such as shall have been acquired for the accommodation of its

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1 business.
2 (5) Such as shall have been mortgaged to it in good faith by way
3 of security for loans previously contracted or for money due.
4 (6) Such as shall have been conveyed to it in connection with its
5 investments in real estate contracts or its investments in real
6 estate under lease or for the purpose of leasing or such as shall
7 have been acquired for the purpose of investment under any law,
8 order, or regulation authorizing such investment, for statement
9 purposes, the value of such real estate shall be determined in a
10 manner satisfactory to the department.
11 (7) Such as shall have been conveyed to it in satisfaction of debts
12 previously contracted in the course of its dealings, or in exchange
13 for real estate so conveyed to it.
14 (8) Such as it shall have purchased at sales on judgments, decrees,
15 or mortgages obtained or made for such debts.
16 (e) All real estate described in subsection (d)(4) through (d)(8)
17 which is not necessary for the convenient transaction of its business
18 shall be sold by said company and disposed of within ten (10) years
19 after it acquired title to the same, or within five (5) years after the same
20 has ceased to be necessary for the accommodation of its business,
21 unless the company procures the certificate of the commissioner that
22 its interests will suffer materially by a forced sale of the real estate, in
23 which event the time for the sale may be extended to such time as the
24 commissioner directs in the certificate.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1150, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

- Page 15, line 42, strike "30.(A)" and insert "**31**".
- Page 16, line 10, strike "30.(A)" and insert "**31**".
- Page 21, line 7, strike "30.(A)" and insert "**31**".
- Page 21, line 16, reset in roman "ten".
- Page 21, line 16, delete "fifteen".
- Page 21, line 17, reset in roman (10%).
- Page 21, line 17, delete "(15%)".
- Page 21, line 18, strike "31.A." and insert "**32**".
- Page 25, line 20, delete ""Asset backed security" means a security or other".
- Page 25, delete lines 21 through 42.
- Page 26, line 1, delete "(4)".
- Run in page 25, line 20 through page 26, line 1.
- Page 26, line 15, reset in roman "(4)".
- Page 26, line 15, delete "(5)".
- Page 26, line 21, reset in roman "(5)".
- Page 26, line 21, delete "(6)".
- Page 26, line 30, reset in roman "(6)".
- Page 26, line 30, delete "(7)".
- Page 26, line 36, reset in roman "(7)".
- Page 26, line 36, delete "(8)".
- Page 27, line 3, reset in roman "(8)".
- Page 27, line 3, delete "(9)".
- Page 27, line 6, reset in roman "(9)".
- Page 27, line 6, delete "(10)".
- Page 27, line 13, reset in roman "(10)".
- Page 27, line 13, delete "(11)".
- Page 27, line 18, reset in roman "(11)".
- Page 27, line 18, delete "(12)".
- Page 27, line 27, reset in roman "(12)".
- Page 27, line 27, delete "(13)".
- Page 35, line 33, delete "asset backed securities that carry a rating of at least:" and insert "**obligations or interests in trusts or partnerships in which a life insurance company may invest as described in paragraph 31 of IC 27-1-12-2(b). Investments authorized by this paragraph may not exceed ten percent (10%) of the company's admitted assets.**".

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Page 35, delete lines 34 through 39.
and when so amended that said bill do pass.
(Reference is to HB 1150 as introduced.)

FRY, Chair

Committee Vote: yeas 13, nays 0.

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